

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

FIBER SYSTEMS INTERNATIONAL, INC. §

Vs. § CIVIL ACTION NO. 2:06-CV-473

APPLIED OPTICAL SYSTEMS, INC. §

**ORDER**

The court grants Fiber Systems' motion to conduct limited discovery (#13) and will allow Fiber Systems to issue subpoenas *duces tecum* to and, if necessary, depose each of the 12 customers identified in Applied Optical's motion for summary judgment. The court imposes a collective time limit on any such oral depositions of 24 hours. The remaining terms of the parties' agreements on limited discovery are incorporated by reference into this order. The court will address any additional discovery limitations at the scheduling conference.

Applied Optical's motion to stay discovery pending resolution of the motion for partial summary judgment (#7) is denied as moot.

Applied Optical's motion to stay pending reexamination (#8) is denied. Although Applied Optical moved for a stay at the beginning of the case, the plaintiff's ability to assert its intellectual property would be unfairly prejudiced by the granting of a stay. Moreover, it is not clear that the result of the reexamination would clarify or simplify the issues in this lawsuit. A balancing of the relevant factors reveals that the motion to stay pending reexamination is not well-taken and it is accordingly denied.

The motion for protective order (#50) is granted in light of the parties' agreement to enlarge the time to respond.

SIGNED this 27th day of September, 2007.



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CHARLES EVERINGHAM IV  
UNITED STATES MAGISTRATE JUDGE